

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:19-cv-00025-MR**

EARL SPENCER BOYCE, JR.,

Petitioner,

vs.

TRAVIS M. BRAGG,

Respondent.

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ORDER

THIS MATTER is before the Court on Petitioner's second Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 5].

Petitioner has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, which requires a \$5.00 filing fee. [Doc. 1]. He filed an Application to proceed *in forma pauperis* [Doc. 3] that was denied without prejudice due to his failure to file a six-month prison trust fund account statement pursuant to 28 U.S.C. § 1915(a)(2). [See Doc. 4]. The Court then ordered Petitioner to either pay the required filing fee or refile his Application in accordance with § 1915(a)(2). [Id.].

Petitioner has now filed a second Application to proceed *in forma pauperis*. [Doc. 5]. In support of the Application, Petitioner has filed a trust account statement showing a six-month average daily account balance of

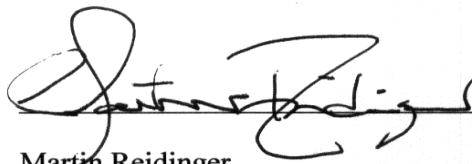
\$52.50 [Doc. 6 at 2] and a commissary receipt indicating an account balance of \$36.63 as of February 19, 2019 [Doc. 6-1 at 1]. He further states that he receives income of \$40 per month from his father. [Doc. 5 at 5].

It appears from Petitioner's filings that he has adequate resources to pay the \$5.00 filing fee. See 28 U.S.C. § 1915(b)(1). Therefore, Petitioner's Application is denied. Petitioner shall be required to pay the \$5.00 filing fee within thirty (30) days of this Order. Failure to comply with this Order will likely result in the dismissal of this action without prejudice. See generally Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915.

IT IS, THEREFORE, ORDERED that Petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 5] is **DENIED**. Petitioner shall pay the required filing fee within thirty (30) days of this Order. **Petitioner is specifically advised that failure to pay the required filing fee in the time required will likely result in the dismissal of this action without prejudice.**

IT IS SO ORDERED.

Signed: March 2, 2019


Martin Reidinger
United States District Judge

